US Army Corps of Engineers.

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

NUMBER: 28200S DATE: 30 June 2004

RESPONSE REQUIRED BY: 21July 2004

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197 PROJECT MANAGER: Bob Smith Phone: (415) 977-8450/E-mail: rsmith@smtp.usace.army.mil

1. **INTRODUCTION:** Wildlands, Inc., 1330 Broadway, Suite 1032, Oakland, California 94612, (contact: Greg Lyman, (510) 444-8810), plans to construct a wetland mitigation bank, the Pajaro River Mitigation Bank, along a former Pajaro River alignment on 300 acres located on the border of Santa Clara and San Benito Counties, approximately ¾ mile west of San Felipe (Soap) Lake along State Highway 152, as shown in the attached drawing.

2. **PROPOSED PROJECT:** Wildlands, Inc., proposes that the Bank be available for use for off-site compensatory mitigation for unavoidable impacts to waters of the United States, including wetlands, which result from activities authorized under Section 404 of the Clean Water Act (§404); impacts to federally-listed threatened or endangered species under §7 and §10a of the Endangered Species Act (§7 and §10a respectively) and/or occupied habitat; impacts to waters of the, United States, including wetlands, which result from activities authorized by the National Resource Conservation Service under the Swampbuster provisions of the Food Security Act; provided the Bank meets all requirements applicable for mitigation with respect to a particular project and that mitigation through use of a bank is authorized by the appropriate authority.

Historically the Pajaro River Mitigation Bank site was within a large salt marsh, or alkali flat, known as the Bolsa De San Felipe that was located between the Pajaro River and Hollister. In the early 1900's, Millers Canal was built, and many of the wetlands in the area were drained and converted to agricultural lands. In the past the site has been used for the disposal of primary and secondary wastewater treatment sludge and whey solids from cheese production. During this time crops such as winter wheat continued to be grown on the site. Sludge spreading operations were discontinued in 1991 due to high nitrate concentrations in the soil and vegetation on the site.

The Pajaro River Mitigation Bank would consist of preserved and created wetlands. Approximately 150 acres of wetland and open water habitats would be created to complement the 6.73 acres of existing wetlands that would be preserved on the site. The rest of the site would remain as upland.

The work necessary for habitat establishment would include site preparation (which may include mowing and/or burning-off of the existing weedy vegetation), grading, seeding, plant installation, and maintenance. To create the marsh complex, material excavated from the wetlands would be placed around the perimeter of the site to create gentle berms. Water control structures (e.g., flashboard risers) would be incorporated into these berms to provide for maintenance of specific water levels. Project construction would use balanced cut and fill earthwork so that all excavated materials will remain on the site. Brief descriptions of the habitats that would be created are provided below.

**Marsh Complex**

The marsh complex includes components of open water, perennial marsh and seasonal marsh habitats. Water levels in the marsh complex will be managed by adding or removing boards from flashboard riser water control structures.

*Open Water.* To develop and maintain open water, ponding depths of between 36- and 60- inches will be created. No plants will be planted in these areas, but aquatic vegetation such as marsh primrose (*Ludwigia* sp.) may naturally colonize this habitat.

*Perennial Marsh.* Inundated or saturated soil will be present in this habitat year-around, with surface water depths generally ranging from 6 inches to 36 inches. To establish perennial marsh vegetation, cattails (*Typha* spp.) will be planted in the perennial marsh zones. Other vegetation that may naturally colonize this zone includes bulrush (*Scirpus* spp.), smartweed (*Polygonum* spp.) and willows (*Salix* spp.).

The perennial marsh may be completely drained in late August or early September to remove exotic predators such as bullfrogs, should they become an established nuisance on-site.

*Seasonal Marsh.* Seasonal marsh habitat will consist of seasonally flooded flats and swales. The basins will contain up to 18 inches of water when completely inundated. Seasonal marsh plants that already occur onsite, such as alkali bulrush (*Scirpus robustus*), pickleweed (*Salicornia virginica*), saltgrass (*Distichlis spicata*) and alkali heath (*Frankenia salina*), will be planted in the seasonal marsh zones.

Portions of the marsh may be drawn down in early to mid April by removing boards from the flashboard risers to provide very shallow water and mudflat conditions for spring migrating shorebirds. Other portions of the seasonal marsh will be allowed to draw down naturally.

**Associated Uplands**

Upland habitats are designed to provide nesting areas and cover for upland birds and waterfowl, and aestivation areas for amphibians. Upland areas will be created in the marsh through the selective placement of excavated material. The uplands will be seeded with a mixture of creeping wild rye (*Leymus triticoides*) and other appropriate native grass and forb species.

**Wetland Vegetation Establishment and Source**

The use of vegetation plugs collected from existing wetlands on site will be used as one source of vegetation establishment within the created wetlands.

**Construction Management**

Construction of the wetlands will be managed to ensure that the mitigation habitats are constructed as designed, and that proper erosion control measures are taken and existing wetland habitats are not affected by construction activities. The majority of the construction activities will take place well away from existing wetlands. However, collection of plant materials will occur in existing wetlands. Therefore, to protect the naturally occurring wetlands on the mitigation site during construction of mitigation habitats, the following measures will be implemented:

- A Wildlands, Inc. representative familiar with wetland creation will observe and manage habitat creation on a daily basis. The representative will have authority to stop construction activities if situations arise that could be detrimental to the preservation of the existing wetlands. Construction will be allowed to resume only after corrective actions have alleviated the potential for detrimental activities.
- Erosion control practices will be implemented as needed, including but not limited to: grading during the dry season, compaction of berms and upland spoils, and seeding and mulching areas of exposed soil.

**As-Built Report**

As-built drawings will be prepared using Global Positioning System (GPS) data points collected around the edges of the created wetlands overlaid on the original aerial map. The as-built drawings will be submitted with an as-built report to the members of the Mitigation Bank Review Team (MBRT) within 60 days after the mitigation implementation is completed.

3.**CONSIDERATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate authorization of the proposed bank. The Corps will consider any comments received in preparation of the bank enabling instrument.

4. **SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Bob Smith of our office at telephone 415-977-8450 or E-mail: rsmith@spd.usace.army.mil.